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Attorneys for Nominal Defendant  
APPLE COMPUTER, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

KELLEY BERGMAN, derivatively on behalf  
of APPLE COMPUTER, INC.,

Case No. C 06-05374 JW

**STIPULATION AND [PROPOSED]  
ORDER EXTENDING TIME FOR  
DEFENDANTS TO RESPOND TO  
COMPLAINT AND REFERRING  
THIS CASE TO JUDGE JEREMY  
FOGEL**

FRED D. ANDERSON, WILLIAM V.  
CAMPBELL, TIMOTHY D. COOK,  
MILLARD DREXLER, STEVEN P. JOBS,  
RONALD B. JOHNSON, ARTHUR D.  
LEVINSON, MITCHELL MANDICH,  
PETER OPPENHEIMER, JONATHAN  
RUBINSTEIN, AVADIS TEVANIAN, JR.,  
JEROME B. YORK, and DOES 1 through 20,  
inclusive.

### Defendants.

- and -

APPLE COMPUTER, INC.,

## Nominal Defendant.

1 IT IS HEREBY STIPULATED by and between Plaintiff Kelley Bergman and Nominal  
2 Defendant Apple Computer, Inc., as follows:

3 WHEREAS, Bergman filed his Complaint on August 31, 2006;

4 WHEREAS, counsel are engaged in discussing the possibility of consolidation of this  
5 matter with related cases and/or the subsequent filing of a consolidated complaint;

6 WHEREAS, the undersigned parties wish to further judicial efficiency by deferring  
7 responsive pleadings until such time as consolidation issues are addressed;

8 WHEREAS, the undersigned parties believe and agree that pursuant to L.R. 3-12(a) the  
9 instant action is related to the following actions deemed related and currently assigned to Judge  
10 Jeremy Fogel: (1) *Karant v. Jobs, et al.*, Case No. C06-04128 JF; (2) *Holbert v. Anderson, et al.*,  
11 Case No. C06-04454 JF; (3) *Pirelli Armstrong Tire Corporation Retiree Medical Benefits Trust v.*  
12 *Anderson, et al.*, Case No. C06-04493 JW; (4) *Port Authority of Allegheny County Retirement*  
13 *and Disability Allowance Plan for Employees Represented by Local 85 of the Amalgamated*  
14 *Transit Union v. Jobs, et al.*, Case No. C06-04510 PJH; (5) *Alecci v. Anderson, et al.*, Case No.  
15 C06-04649; and (6) *Priebe v. Jobs, et al.*, Case No. C06-04703 WHA.

16 NOW, THEREFORE, pursuant to LR. 6-1, the undersigned parties stipulate as follows:

17 All defendants who have been served to date, and all defendants who shall subsequently  
18 accept service and request to be covered by this stipulation, shall have an extension of time to  
19 answer or otherwise respond to 30 days after the filing of a consolidated complaint, or in the  
20 event that the Court denies a motion for consolidation, the above-described defendants shall  
21 answer or otherwise respond to Bergman's Complaint no later than 30 days after such denial.  
22 The parties further agree that pursuant to L.R. 3-12(a), this case is related to the above-described  
23 cases assigned to Judge Jeremy Fogel, and therefore in the interest of judicial economy and  
24 efficiency, the parties respectfully request that this case be referred to Judge Jeremy Fogel.

1 IT IS SO STIPULATED.

2 Dated: September 5, 2006

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GEORGE A. RILEY  
DAVID M. FURBUSH  
LUANN L. SIMMONS  
O'MELVENY & MYERS LLP

By: /s/ Luann L. Simmons

Luann L. Simmons

Attorneys for Nominal Defendant  
APPLE COMPUTER, INC.

Dated: September 5, 2006

JOSEPH W. COTCHETT  
BRUCE L. SIMON  
MARK C. MOLUMPHY  
KELLY L. SOMMERFELD  
COTCHETT, PITRE, SIMON &  
MCCARTHY

By: /s/ Mark C. Molumphy

Mark C. Molumphy

Attorneys for Plaintiff  
KELLEY BERGMAN

**CERTIFICATION OF CONCURRENCE**

I attest under penalty of perjury that concurrence in the filing of this document has been obtained from Mark C. Molumphy.

Dated: September 5, 2006

GEORGE A. RILEY  
DAVID M. FURBUSH  
LUANN L. SIMMONS  
O'MELVENY & MYERS LLP

By: /s/ Luann L. Simmons

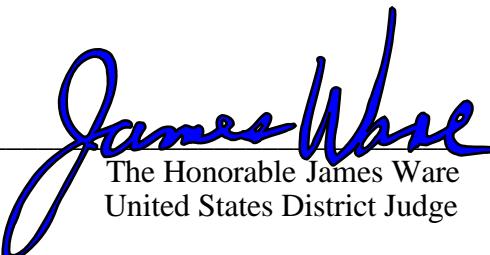
Luann L. Simmons

Attorneys for Nominal Defendant  
APPLE COMPUTER, INC.

1                   **[PROPOSED] ORDER**  
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Pursuant to stipulation, IT IS SO ORDERED.

4                   Dated: 9/8/06  
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The Honorable James Ware  
United States District Judge

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